

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF SEPTEMBER 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Michael J. Brown, Chairman, Powhatan District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
Bruce C. Goodson, Roberts District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

Mr. Brown requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Sarah Phillips, a fifth-grade student at D. J. Montague Elementary School, and Matthew Phillips, a second-grade student at D. J. Montague Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Exceptional Service Award—Mr. Brian Williamson

Mr. Brown presented Brian Williamson with an Exceptional Service Award for his quick response of first aid on June 9, 2005. When Mr. Bill Brown was working in Stonehouse and was struck by a six-foot shard of timber traveling at roughly 60 MPH, Mr. Williamson immediately came to his aid, providing treatment for shock and injuries until emergency services arrived. Mr. Williamson's speedy response in a time of emergency directly resulted in Mr. Brown's survival.

E. PUBLIC COMMENT

1. Mr. Richard Streko, 6061 Allegheny Road, referenced a referendum voted for in November for school construction; inquired how the funding to cover the shortfall will be covered; and requested an additional referendum or delay until construction costs level off.

2. Mr. John E. Hall, 117 Olde Jamestown Court, addressed the Board stating that the requirement of a plastic ID card to ride a bus was unfair to younger riders that may not have an acceptable ID

card, and requested adequate heating and cooling as well as gymnasium space be offered at all three high school facilities.

3. Mr. Richard Foley, 2780 Jonas Profit Trail, stated that the current price gouging by oil companies should be investigated by the Commonwealth with the County's support for the investigation.

4. Mr. Kenneth Eastman, 2804 Ann Johnson Lane, stated that real property tax dollars are based on the County's assessments which he deemed unreasonable. Mr. Eastman requested for the Board to immediately correct the situation. He suggested that assessments be made by larger areas rather than by subdivisions.

5. Ms. Elli Williams, 3509 Mott Lane, introduced herself as the new PTA Council president and requested the Board to keep the needs of the community's youth in mind in all its deliberations. She also invited the Board to contact the PTA Council regarding any concerns.

6. Mr. Brian Oyer, 9025 Barnes Road, stated that growth has gotten out of control in the County and the Board has not monitored or controlled the growth in the community that negatively impacts the public services of the community. Mr. Oyer commented on the assessment increases in the past few years. He also stated that the appeals process for real estate assessment is inadequate in its support to the citizens.

7. Mr. Ed Oyer, 139 Indian Circle, commented on the work of the military and reserve. Mr. Oyer also stated that realtors need to justify the sale prices of homes in the Grove community. He was also concerned that the fess assessed by the County on the telephone bills has increased.

8. Ms. Betty Smith, 9347 Barnes Road, objected to an assessment increase on homes. She wanted to know where and how the assessment revenue will be allocated.

9. Ms. Margaret T. Hill, 4495 Centerville Road, stated that 60 to 70 percent assessment increases in a year are unfair to the citizens.

10. Mr. Kingston Fairclough, 4 Peale Court, stated that the assessments are where the citizens are hit the hardest. Mr. Fairclough said the tax rates can be adjusted as much as you want but the assessment increases are unnecessary. He requested equal assessments across the County and suggested that a Master Plan for the County should be developed to control and to address the assessment issues.

F. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the Consent Calendar

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

1. Minutes - August 9, 2005, Regular Meeting

2. Dedication of Streets in Wexford Hills, Phases 3A and 1B

RESOLUTION

DEDICATION OF STREETS IN WEXFORD HILL, PHASES 3A AND 1B

WHEREAS, the streets described on the attached Additions Form LA-5A, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets, described on the attached Additions Form LA-5A, into the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3. Creation of Full-Time Permanent Senior Office Assistant Position - General Services

RESOLUTION

CREATION OF FULL-TIME PERMANENT SENIOR OFFICE ASSISTANT POSITION -

GENERAL SERVICES

WHEREAS, General Services is requesting the elimination of two part-time permanent Custodian positions at 1,560 hours each and the establishment of a full-time permanent Senior Office Assistant to help address the growing workload of the General Services Department and to free up the time of other staff to perform non-administrative duties; and

WHEREAS, General Services has been outsourcing custodial services as positions have become vacant and by eliminating two part-time permanent custodial positions can establish a full-time permanent Senior Office Assistant position without adding to the total number of full-time equivalent (FTE) positions in the Department; and

WHEREAS, General Services currently has one part-time permanent (20 hours/week) Senior Office Assistant whose is providing administrative support to all General Services, including General Services Administration, Facilities and Grounds Maintenance, Custodial, Fleet and

Equipment, Capital Projects, and Contract Administration.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby eliminates two part-time permanent Custodian position at 1,560 hours each and creates the full-time permanent position of Senior Office Assistant in General Services effective September 16, 2005.

4. Creation of Executive Director Position - Williamsburg Area Transport

RESOLUTION

CREATION OF EXECUTIVE DIRECTOR POSITION

WILLIAMSBURG AREA TRANSPORT

WHEREAS, James City County is working with regional partners to create the Williamsburg Area Transport Authority; and

WHEREAS, funds were included in the approved FY 06 budget for the position of Executive Director.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, creates the full-time limited-term position of Executive Director of Williamsburg Area Transport, effective September 16, 2005.

5. Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG)

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE -

JUSTICE ASSISTANCE GRANT (JAG)

WHEREAS, the Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,643; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the funds will be used to purchase an advanced Child ID Kit System that will allow officers to create an ID card, similar to a credit card, with the child's digital photograph and one digital fingerprint, thus enhancing the productivity and the capability of the Department's Community Services Unit (CSU) by saving man-hours and expenses involved with film and replacement blank ID kits; and

WHEREAS, the grant expires August 30, 2008, thus allowing any unexpended funds as of June 30, 2006, June 30, 2007, and June 30, 2008, to be carried forward to James City County's next fiscal year appropriately.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia,

hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

Police JAG Child ID Grant \$12,643

Expenditure:

Police JAG Child ID Grant \$12,643

- 6. Revenue Sharing Project Amendment - Watford Lane (Route 763)/Carriage Road (Route 672)

RESOLUTION

REVENUE SHARING PROJECT AMENDMENT –

WATFORD LANE (ROUTE 763)/CARRIAGE ROAD (ROUTE 672)

WHEREAS, the James City County Board of Supervisors is participating in the Virginia Department of Transportation (VDOT) Revenue Sharing Program for FY 2006-07; and

WHEREAS, the James City County Board of Supervisors has decided to amend one Revenue Sharing project; and

WHEREAS, VDOT requires written notification of the County’s new project description.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that VDOT is hereby requested to amend the FY 2006 Revenue Sharing Project list to include an amended project description as Watford Lane (Route 763)/Carriage Road (Route 672).

- 7. Revisions to the Family and Medical Leave, Civil Leave, and Overtime Policies of the James City County Personnel Policies and Procedures Manual

RESOLUTION

REVISIONS TO THE FAMILY AND MEDICAL LEAVE, CIVIL LEAVE, AND

OVERTIME POLICIES OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, it’s the practice of the County to periodically review its personnel policies for conformance to laws and alignment with the County’s values; and

WHEREAS, the Family and Medical Leave Act (FMLA) of 1993 policy description, employee requirements, and supervisor responsibility were revised to clarify provisions of the law; and

WHEREAS, the Civil Leave policy was changed to conform with changes in the law related to jury duty; and

WHEREAS, the Overtime policy was changed to clarify provisions in the Federal Labor Standards Act.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached revisions to Sections 5.4.D, 5.4.E.4 and 4.14 of the James City County Personnel Policies and Procedures Manual.

8. Appropriation to the Peninsula Health District - \$11,392

RESOLUTION

APPROPRIATION TO THE PENINSULA HEALTH DISTRICT - \$11,392

WHEREAS, the Peninsula Health District received an unexpected increase of \$128,543 in the State allocation for local match; and

WHEREAS, James City County's share of the match is \$11,392.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$11,392 from Contingency to the Peninsula Health District.

9. 400th Anniversary Commemorative Circle Williamsburg/James City County Courthouse

RESOLUTION

400TH ANNIVERSARY COMMEMORATIVE CIRCLE

WILLIAMSBURG/JAMES CITY COUNTY COURTHOUSE

WHEREAS, the Honorable Samuel T. Powell, III, has requested James City County and the City of Williamsburg authorize the expenditure of up to \$19,775 for design and construction documents for the development of a 400th Anniversary Commemorative Circle at the Williamsburg/James City County Courthouse; and

WHEREAS, the Board of Supervisors has authorized the assessment of a courthouse maintenance fee and in partnership with the City of Williamsburg operates a joint courthouse; and

WHEREAS, the Courthouse is in the City of Williamsburg and the City of Williamsburg services as financial agent for the Courthouse Maintenance Funds; and

WHEREAS, funds are available in the City/County Courthouse Maintenance Fund to allow for enhancements to the Courthouse.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes, subject to similar approval by the City Council of Williamsburg, the following expenditure.

Revenues:

Courthouse Maintenance Fund \$19,775

Expenditure:

400th Anniversary Commemorative Circle \$19,775

10. Resolution of Appreciation - York County

RESOLUTION OF APPRECIATION

YORK COUNTY

WHEREAS, on August 6, 2005, a devastating bolt of lightning struck the James City County Emergency Communications Center (ECC); and

WHEREAS, that bolt of lightning rendered all electronic systems in the ECC inoperable including the microwave radio dispatch communications system, the 911 telephone system, and the Computer Aided Dispatch System; and

WHEREAS, York County and James City County have had a long-standing operational plan for just such a situation that allows the two counties to swap emergency communication functions; and

WHEREAS, staff from the York County Communications Center took on the tasks of answering all County 911 calls and Dispatching all Emergency Calls until the arrival of James City County Emergency Telecommunicators; and

WHEREAS, York County hosted the functions and staff of the James City County Emergency Communications Center for the next five days, thus insuring the timely dispatch and response of Emergency Fire, Police, and EMS crews for the residents and visitors of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby extends its thankful appreciation to the citizens, Board of Supervisors, and the Emergency Communications Center staff of York County, Virginia.

11. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - George Amrein

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - GEORGE AMREIN

- WHEREAS, George Amrein is the owner of a certain parcel of land, commonly know as 184 The Maine, designated as Parcel No. (02-65) on James City County Real Estate Tax Map No. (45-4) herein referred to as the ("Property"); and
- WHEREAS, on or about July 8, 2005, George Amrein caused to be removed approximately 17 trees and shrubs from within the Resource Protection Area (RPA) on the Property; and
- WHEREAS, George Amrein agreed to a Restoration Plan to replant eight canopy trees, eight understory trees, and 18 shrubs on the Property in order to remedy the clearing violation under the County's Chesapeake Bay Preservation Ordinance. Mr. Amrein has posted sufficient surety guaranteeing the installation of the aforementioned improvements and the restoration of the RPA on the Property; and
- WHEREAS, George Amrein has agreed to pay \$1,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from George Amrein as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

12. First Amendment to Amended and Restated Cooperative Service Agreement

RESOLUTION

FIRST AMENDMENT TO AMENDED AND RESTATED

COOPERATIVE SERVICE AGREEMENT

- WHEREAS, James City County ("County") entered into an Amended and Restated Cooperative Service Agreement ("Service Agreement") on August 1, 1995 with the Virginia Peninsula Regional Jail Authority ("Jail Authority"), which provides for the financing, construction, and operation of the Jail Authority; and
- WHEREAS, the First Amendment to Amended and Restated and Cooperative Service Agreement ("Amendment Agreement") modifies the Service Agreement by removing a Per Diem

Charge for use of the Jail Authority and incorporating a monthly Member Jurisdiction Charge in its place; and

WHEREAS, the Board of Supervisors is of the opinion the County should execute the Amendment Agreement to incorporate the Member Jurisdiction Charge to the Service Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to execute the Amendment Agreement in order to incorporate the Member Jurisdiction Charge to the Service Agreement.

13. Award of Contract - Toano Convenience Center

RESOLUTION

AWARD OF CONTRACT – TOANO CONVENIENCE CENTER

WHEREAS, bids were advertised for construction of the Toano Convenience Center at 185 Industrial Boulevard, Toano; and

WHEREAS, bids were received and O.K. James Construction, Inc., was the lowest responsive and responsible bidder with a bid of \$295,143; and

WHEREAS, funds are available in the current Capital Improvements Program (CIP) budget for this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract in the amount of \$295,143 with O.K. James Construction, Inc., for the construction of the Toano Convenience Center.

14. Agreement for Powhatan C Election Precinct

RESOLUTION

AGREEMENT FOR POWHATAN C ELECTION PRECINCT

WHEREAS, the James City County Electoral Board is required to conduct elections in the County of James City; and

WHEREAS, the Greensprings Chapel has offered to provide a polling place for the Powhatan C Precinct.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute a lease agreement between James City County and the Greensprings Chapel for the establishment of a polling place for the Powhatan C Precinct.

15. Easement, Dominion Virginia Power - Emergency Communications Center

RESOLUTION

EASEMENT, DOMINION VIRGINIA POWER – EMERGENCY COMMUNICATIONS CENTER

WHEREAS, James City County owns 4.79± acres, commonly known as the James City County Emergency Operations Center site and Fire Station 1 designated as Parcel No. (1-27) on James City County Real Estate Tax Map No. (12-3); and

WHEREAS, Dominion Virginia Power requires a 15-foot utility easement in order to provide electrical service to the Emergency Communications Center presently under construction; and

WHEREAS, the Board of Supervisors is of the opinion that it is in the public interest to convey a utility easement to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Right-of-Way Agreements and such other documents necessary to convey a utility easement to Dominion Virginia Power for the Emergency Communications Center.

G. PUBLIC HEARINGS

1. Proposed Real Property Tax Rate and Budget Amendments

Mr. John E. McDonald, Manager of Financial and Management Services, provided an overview of the Proposed Real Property Tax Rate and Budget Amendments. These proposed changes cite § 58.1-3321 of the Code of Virginia which states that any general reassessment that increases property values by more than one percent shall result in a lowering of the real property tax rate to a levy that would produce the same revenue as the locality actually collected in the prior year. Therefore, the 14.6 percent increase would merit lowering the current tax rate from 82.5 cents to 72 cents to match the prior year's revenue. The State Code allows for this rate to be increased during a public hearing that is subsequent to the budget public hearing. The resolution proposes to reduce the tax rate from 82.5 cents to 79 cents per \$100 assessed, and to amend the FY 2006 budget by appropriating \$2,313,200.00 into two parts--\$1,600,000.00 to increase funding for the new high school and \$713,200 for debt service reserve in anticipation of an issuance of debt for several school projects.

Mr. Brown opened the Public Hearing.

1. Mr. Richard Streko, 6061 Allegheny Road, requested the Board consider a tax rate reduction to \$.72/\$100 and consideration of those citizens on fixed-income and senior citizens. He also requested a subsequent referendum to address the school facility issues.

2. John E. Hall, 117 Olde Jamestowne Court, stated that senior citizens in the Hampton Roads area cannot afford increased assessments and subsequent tax bills.

3. Mr. Curtis Barbor, 20 Hill Top Court, commented that the assessment on his home increased by \$300 in just over 10 years while his retirement income has dropped by 10 percent in that same time frame. Mr. Barbor stated that inflation has increased on almost everything else and requested that the Board reduce the tax rate to at least \$.72/\$100 but would prefer \$.70/\$100 which, he stated will still provide the County

adequate funding for operations. He said that County taxes are two-and-a-half times higher than his Federal Taxes and utilities, trash, rubbish, and recycling fees are additional to the taxes paid. He stated that the funds should support the public services such as fire, police, and libraries, and not as much should be appropriated for schools.

4. Ms. Kelly Osterhout, President of Williamsburg-James City Education Association, stated concern about improving the quality of public schools in the community and asked the Board to support staff recommendation on tax rates so classrooms and educational needs are addressed. The increased funds could reduce over-crowding of schools and support facility expansions/renovations.

5. Mr. Mike Ludwick, 4493 Village Park West, commented on the assessment increases and funding for the school facilities and requested the Board to support the school facilities and keep the tax rate at the level recommended by staff.

6. Mr. William Beck, 7988 Richmond Road, commented that his Real Property taxes are increasing and he and his wife are on fixed-incomes and the assessments are unjustified. Mr. Beck inquired how many citizens in the County are on fixed-incomes. He also requested the Board not conduct business in a tax-and-spend method.

7. Ms. Betty Smith, 9347 Barnes Road, requested the Board support a lower real property tax rate than \$0.72/\$100.

8. Mr. Ed Oyer, 139 Indian Circle, commented on the structure of the fence line in his community. He stated that he does not have public water/sewer service yet his assessment went up 6% higher than the neighboring home that is newer and has public utility service. He requested justification for the assessment increase on his property. Mr. Oyer commented on the increased traffic on Route 60 East. He recommended the County pay for schools or pay for recreation because the citizens of the community cannot afford to support both of these options.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison inquired how many physical assessments were conducted.

Mr. McDonald stated that approximately 6,000 parcels were inspected for assessments. He also suggested those that feel their assessment is unfair request an assessment from real estate assessors and perhaps appeal to the Equalization Board if the assessment overestimates the value of the property.

Mr. Harrison inquired whether or not the assessments would be more level if more inspections were conducted.

Mr. Goodson inquired if the State investigates the assessments.

Mr. McDonald stated that the Code of Virginia is up for change, but until the change is made, the County must conduct assessments according to the current Code.

Mr. McGlennon stated that although the assessments were dramatic in the increase scope, it does accurately reflect the values of homes and the County has experienced a larger increase of costs than anticipated which also needs to be addressed; and while it is a difficult choice to make, the Board does have to find additional revenue while being moderate in the review.

Mr. McGlennon stated that in the spring the Board discussed that the County does have a program to assist seniors at or below an income level to be exempt from the taxes; and requested the Board review the program and see if it is effective and review it to see if the program needs to be adjusted.

Mr. McGlennon made a motion to adopt the resolution presented by staff.

Mr. Bradshaw requested Mr. McDonald provide an overview of the program.

Mr. McDonald stated that the Commissioner of Revenue funds the program for elderly that exempts, not defers, a portion of property taxes for those who meet certain income, assets, disability, or other restraints. The Commissioner of Revenue can offer assistance to those who may qualify for this program.

Mr. Bradshaw concurred with Mr. McGlennon to review the program and its qualification guidelines; and stated that he can support a moderate rate rather than one that will require a rate hike in a few years to compensate.

Mr. Brown stated that the budget was developed based upon an expected 7.8 percent increase, and he saw the land book was considerably higher. He recommended the County not collect revenue from the citizens and offered an amendment to the motion to reduce the tax rate by \$.04/\$100.

The Board discussed the proposed amendment to reduce the collection from citizens above the budgeted collection figures.

Mr. Wanner called a vote to accept the motion to reduce the tax rate to \$0.785.

On a roll call vote, the vote was: AYE: Harrison, Goodson, Brown (3). NAY: McGlennon, Bradshaw (2).

Mr. Wanner called a vote on the tax rate of \$0.785.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

2. Case No. Z-10-05/MP-07-05/SUP-17-05. Villages At White Hall (La Grange) Case No. Z-11-05/MP 08-05/SUP-18-05. Villages at White Hall ("Three Villages": Taskinas, Hickory Neck, and Rochambeau)

Mr. Bradshaw stated that he previously represented the property owner and trustee; however, he no longer represented either at the time of the meeting and could participate objectively and fairly.

Mr. Matthew J. Smolnik, Planner, stated that Mr. Vernon Geddy has submitted an application on behalf of Gayle Rauch of Rauch Development Company, LLC, to rezone 161.35 acres from A1, General Agricultural District and B-1, General Business District, to: R-2, General Residential District, Cluster Overlay, with proffers; R-5 Multifamily Residential District, Cluster Overlay, with proffers; and B-1, General Business District, with proffers. These projects have been presented in two separate zoning applications (La Grange Village and Taskinas, Rochambeau, and Hickory Neck Villages ("The Three Villages")) but the applicant views them as parts of one development. As a result, staff reviewed the two applications separately on their individual merits. An 8,000-square-foot building would also be erected near Rochambeau Drive in the proposed B-1, General Business District with proffers.

Staff found that the two cases sufficiently address technical issues addressed. Staff's

recommendation hinges on qualitative but key findings called for in the Comprehensive Plan, including whether the proposal:

- ◆ Adequately helps achieve the Anderson's Corner vision of creating a traditional rural village with open land and farm fields
- ◆ Adequately protects historic structures and scenic vistas
- ◆ Provides adequate public benefits
- ◆ Seeks an appropriate density given the surrounding development and adequacy of proposed buffers

On August 1, 2005, the Planning Commission voted 6-1 to approve the applications for LaGrange, Taskinas, Hickory Neck, and Rochambeau Villages.

Staff recommends the James City County Board of Supervisors approve the rezoning, SUP, and master plan application for Taskinas, Rochambeau, and Hickory Neck Villages, accepting the voluntary proffers, and applying the SUP conditions offered.

Staff recommended deferring the rezoning, SUP, and master plan application for La Grange.

The Board and staff discussed potential uses for a buffer along Route 60 including agricultural operation or just fencing it in with a three-rail fence to give an agricultural feel to the area. Also, the Board and staff discussed the proffer permitting agricultural structures on the land.

The Board and staff discussed prohibiting wayside stands and farmer's markets by-right in this zoning. It was stated that the buffer was owned by the Homeowners Association (HOA) and the land could be leased out to someone for agricultural means, but if the area is not agriculturally developed, then it is the responsibility of the HOA to maintain the buffer.

The Board and staff discussed the selling prices for the units, the B-1 zoned parcel, and the types of by-right uses for the existing zoning.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing the applicant, provided an overview of the applications and proposed development, and requested the Board approve the applications.

Mr. Brown requested clarification on the LaGrange proffers and deferral request.

Mr. Vernon M. Geddy, III stated that the La Grange application and proffers were acceptable to all parties since July. The focus has been on the three villages and amended proffers were submitted in consideration of the concerns voiced.

Mr. Donald Hunt, Planning Commission, stated that the Planning Commission was comfortable with the La Grange proffers as presented since July.

Mr. Leo P. Rogers stated that if the applicant wanted to offer this proffer amendment, he and the applicant could take a moment and work something out that the Board can act on.

The Board, Mr. Vernon M. Geddy, III, and Mr. Rogers discussed the proffers for the La Grange and concurred to consider language to make the two sets of proffers similar in regard to the \$100 and turf management.

Mr. Bradshaw and Aaron Small with AES Consultant Engineers discussed offsite areas and their uses. Mr. Small discussed about 60 acres flowing into the stormwater control region, including Hickory Neck Church, Stonehouse School property, and the property just north of the "Three Villages"

1. Mr. Burt Geddy, 8297 Richmond Road, stated support for the proposal and stated that the proposal is an acceptable use for the site.

2. Ms. Terry Hudgins, 111 Knollwood Drive, president of Stonehouse District Citizens' Association, stated that her organization opposed this proposed development. They requested studies of an area prior to its development. On her own behalf, she requested an adequate study performed before any development of Anderson's Corner is permitted.

3. Ms. Linda Rice, 2394 Forge Road, representing Friends of Forge Road and Toano, thanked citizens for their support. Ms. Rice also recommended the approval of a study of the Anderson's Corner area and its integration with the study of Toano prior to the approval of the proposals before the Board. She stated concern about the impact these proposals may have on public services. She commented that the Charter for New Initiatives before the Board included points which the citizens of this County have spoken on numerous times and the need to focus on regionalism.

4. Mr. Tim Trant, Kaufman and Canoles attorney, with Stonehouse of Williamsburg, LLC, stated that regional transportation improvements were required as part of its development. Mr. Trant expressed concern about proposed development and its impact on the transportation improvements required. He requested the Board consider applications in the future with transportation impacts and to develop a regional transportation plan that would have Development contribute to the transportation infrastructure.

Mr. McGlennon inquired whether or not a cash proffer existed for transportation.

Mr. Trant suggested a Transportation Master Plan which would identify improvements required and which developments would have to make or contribute to such improvements.

5. Ms. Ann Dieterle, 3811-D Cast Steeplechase Way, Associate Dire of Hickory Neck Episcopal Church, spoke on behalf of the Director of the Hickory Neck Church who was unable to attend this meeting. She stated that the Hickory Neck Church sits on 12.5 acres adjacent to site and offers support for White Hall Villages.

6. Ms. Elizabeth Krome, 2401 Richmond Road, stated that the developer has been responsive to community inputs. Ms. Krome stated that earlier in the evening many citizens spoke about the struggles they have in supporting the basic needs of the community through increased taxes. She requested the Board take the long-range view of the development and its impacts on the public services.

7. Mr. Charlie Parker, 7849 Church Lane, stated that this is a good proposal and the applicant has been exceptionally responsive to community input, and requested approval of the Board.

8. Mr. Kingston Fairclough, 4 Peale Court, stated that the Board of Supervisors will determine the amount of cost to be added to develop the area. He stated this development should be turned down and further study should be done about zoning variance.

9. Ms. Mary McGune Delara, 92 Sand Hill Road (off Olde Stage Road where it meets Rochambeau Drive), stated that VDOT conducted a study of traffic along Rochambeau Drive. Ms. Delara was in opposition of blocking of Old Stage Drive and an inherent creation of a hazardous traffic situation. She stated that the intersection of Old Stage and Rochambeau is safe when vehicles obey traffic laws. She requested further traffic studies to be conducted before any road changes and building permits are issued. She

would like a traffic speed study conducted for Rochambeau Drive and Old Stage Road.

11. Mr. Jerry Jutras, 102 Plains View Road, supported the rezoning and proposed development.

12. Mr. Willard Delara, 92 Sand Hill Road, requested clarification of the by-right uses for B-1 zoning.

Mr. Smolnick clarified that convenience centers/stores are not permitted by-right after the rezoning to B-1 with proffers.

Mr. Rogers responded that convenience centers/stores are specially permitted use, not by-right.

Mr. Delara stated that he understood that a full document traffic study would be conducted after 75 percent of the housing units are developed. Mr. Delara expressed concern about Old Stage Road and Rochambeau Drive and the traffic impacts of the development. He request speed control/enforcement and encouraged VDOT to review the traffic speed on Rochambeau and Croaker Road's two-lane portion.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison inquired about the proffer that puts a cap on development and what impact that has on the other set of proffers.

Mr. Vernon Geddy explained that the proffers cap to 63 units per year for seven years with the balance being built in year seven. Mr. Geddy explained that this limit slows the process even further once the land is subdivided. This gives the County the advantage of certainty concerning development pace.

Mr. Harrison inquired about amount of fiscal impact on the number of units developed.

Mr. Geddy responded that as the units developed, the fiscal impact should stay in sync.

Mr. Bradshaw inquired what options are available if the agricultural use is not implemented in the buffer and if there is an indication from the Board to direct staff to look into any particular option.

The Board discussed the proposal to have staff be innovative in ways to resolve this use.

Mr. Rogers stated that the applicant has proffered through council to offer by reference the same proffer for turf management and cash proffer and will convert the offer into a new proffer document if approved by the Board.

The Board discussed the proposal, its merits, and its impacts on the public service infrastructures and area studies.

Mr. Brown made a motion to approve the four resolutions for the rezoning and development with the amended proffers.

On a roll call vote, AYE: Goodson, Bradshaw, Brown (3). NAY: Harrison and McGlennon (2).

RESOLUTION

CASE NO. SUP-17-05. VILLAGES OF WHITE HALL (LAGRANGE)

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, the applicant has requested to develop the following parcels at a density of 3.46 dwelling units per acre; and
- WHEREAS, the property is currently zoned A-1, General Agriculture, designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and
- WHEREAS, the property can be identified as Parcel Nos. (03-01), (03-02), and (01-21) on the James City County Real Estate Tax Map No. (12-1) and Parcel No. (01-21) on the James City County Real Estate Tax Map No. (12-2); and
- WHEREAS, the applicant has submitted an application to rezone the above mentioned properties; and
- WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-17-05 as described herein with the following conditions:

1. A master water and sewer plan for all Villages shall be submitted for review and approval by the JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of White Hall project, a land disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan, to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21).
3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

RESOLUTION

CASE NO. Z-10-05/MP-7-05. VILLAGES OF WHITEHALL (LAGRANGE)

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-10-05/MP-7-05, with Master Plan, for rezoning 22.81 acres from A-1, General Agricultural, to R-2, General Residential, with proffers; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2005, recommended approval of Case No. Z-10-05/MP-7-05, by a vote of 6 to 1; and

WHEREAS, the properties are located at 8716, 8724, and 8720 Barhamsville Road and 3225 Old Stage Road and further identified as Parcel Nos. (3-2), (3-1), and (1-21) on James City County Real Estate Tax Map No. (12-1) and Parcel No. (1-21) on James City County Real Estate Tax Map No. (12-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-10-05/MP-7-05 and accept the voluntary proffers.

RESOLUTION

CASE NO. SUP-18-05. VILLAGES OF WHITE HALL

(TASKINAS, HICKORY NECK, AND ROCHAMBEAU)

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested to develop the following parcels at a density of 3.0 dwelling units per acre; and

WHEREAS, the property is currently zoned A-1, General Agriculture, and B-1, General Business, designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property can be identified as Parcel Nos. (01-14), (01-18), (01-19), (01-22), and (01-24) on the James City County Real Estate Tax Map No. (12-2); and

WHEREAS, the applicant has submitted an application to rezone the above mentioned properties; and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-18-05 as described herein with the following conditions:

1. A master water and sewer plan for all Villages shall be submitted for review and approval by the JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of White Hall project, a land disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan, to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21).
3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

RESOLUTION

CASE NO. Z-11-05/MP-8-05. VILLAGES OF WHITEHALL

(TASKINAS, HICKORY NECK, AND ROCHAMBEAU)

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-11-05/MP-8-05, with Master Plan, for rezoning 138.54 acres from A-1, General Agricultural and B-1, General Business, to R-2, General Residential, with proffers, R-5, Multifamily Residential, with proffers, and B-1, General Business, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2005, recommended approval of Case No. Z-11-05/MP-8-05, by a vote of 6 to 1; and

WHEREAS, the properties are located at 3400, 3610, 3611, and 3505 Rochambeau Drive and 8350 Richmond Road and further identified as Parcel Nos. (1-14), (1-19), (1-18), (1-22), and (1-24) on James City County Real Estate Tax Map No. (12-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-11-05/MP-8-05 and accept the voluntary proffers.

3. Case No. SUP-22-05. Shops at Norge Crossing

Mr. Jason Purse, Planner, stated that Mr. Gregory Davis has submitted an application on behalf of Kaufman and Canoles for a commercial SUP to allow for an eight-unit, 13,000-square-foot retail center. The eight units will range in size from 1,100 to 2,500 square feet each. The property is located at 7500 Richmond Road and is zoned B-1, General Business, with proffers. It is designated as Community Commercial on the 2003 Comprehensive Plan Land Use Map and can be further identified as Parcel No. (1-71E) on James City County Real Estate Tax Map No. (23-2).

Staff found that the proposed retail center is consistent with the Community Commercial designation for this area. With the attached conditions, staff finds the proposal to be appropriate for this Community Character Corridor. Special use permit conditions are included which provide for architectural controls and increased landscaping. Additionally, a condition is included which requires a four-foot sidewalk to be built adjacent to the parking lot access drive connecting the sidewalk in front of the proposed stores to the required sidewalk along Norge Lane.

On August 1, 2005, the Planning Commission voted 6-0 to approve the application. Kennedy abstained.

Staff recommends the James City County Board of Supervisors approve the special use permit application with conditions listed in the resolution.

Mr. Brown opened the Public Hearing.

1. Mr. Greg Davis, representing applicants Kaufman and Canoles, requested approval of application and provided an overview of the architecture proposed by the developer.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison made a motion to approve the proposal.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-22-05. SHOPS AT NORGE CROSSING

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Gregory Davis of Kaufman and Canoles has applied for a commercial special use permit to allow for an eight-unit, 13,000-square-foot retail center; and

WHEREAS, the proposed expansion is shown on the master plan prepared by LandTech Resources, Inc., dated July 25, 2005, and entitled "Norge Center, Inc., Parcel 5"; and

WHEREAS, the property is zoned B-1, General Business, with proffers, and can be further identified as Parcel No. (1-71E) on James City County Real Estate Tax Map No. (23-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2004, recommended approval of this application by a vote of 6 to 0, with one abstention.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 22-05 as described herein with the following conditions:

1. The site plan shall be substantially consistent with the development plan prepared by LandTech Resources entitled "Norge Center, Inc. Parcel 5" and dated July 25, 2005 (the "Master Plan"). This special use permit shall allow up to a 13,000-square-foot structure for commercial use as permitted in the B-1, General Business district, including, but not limited to, retail shops, service shops, and restaurants.
2. The retail center shall contain architectural features, colors, and materials that reflect the surrounding character of the Norge Community as described in the Comprehensive Plan. The architecture of the retail center shall be generally consistent with the elevations prepared by Hopke and Associates entitled "Johnston Shopping Center" and dated July 14, 2005 (the "Elevations") as determined by the Planning Director. The architectural design, color, and materials shall be approved by the Planning Director prior to final site plan approval for consistency with the Elevations and the character of the Norge Community.
3. An enhanced landscaping plan shall be provided for the area along Norge Lane and the area in front of the parking lot adjacent to Richmond Road. Unless reduced or waived by the Planning Director, the enhanced landscaping plan shall include a quantity of planting materials that is a minimum of 125 percent of the minimum ordinance requirements. A minimum of 50 percent of all trees and 50 percent of all shrubs shall be evergreen.

4. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
5. The dumpster pad and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
6. The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The applicant shall be responsible for enforcing these standards.
7. Prior to final site plan approval, the applicant shall demonstrate to the satisfaction of the Environmental Director that the existing infiltration basin (YC023) shown on the Master Plan is in sound working order and that it is performing at or above the design level of service. Should the basin not be performing at or above the design level of service, the applicant shall perform all necessary and required improvements and upgrades to bring the basin into compliance prior to the issuance of any certificate of occupancy.
8. Prior to the issuance of any certificate of occupancy, the applicant shall install a 4-foot wide sidewalk adjacent to the internal access road as shown on the master plan. This sidewalk shall connect the internal sidewalk in front of the shops to the required sidewalk along Norge Lane.
9. If construction has not begun on the project within thirty-six months of issuance of this special use permit, this special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
10. This special use permit is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

Mr. Brown recessed the Board for a brief break at 10: 35 p.m.

Mr. Brown reconvened the Board at 10:40 p.m.

5. Case No. SUP-23-05. TGIF Friday's

Mr. Joel Almquist, Planner, stated that Mr. Vernon Geddy, III has submitted an application on behalf of PBH, L.L.C. to construct and operate a TGI Friday's restaurant located at 5521 Richmond Road, between the intersections at Airport Road and Olde Towne Road. The property is adjacent to Bruce's Auto Body and will share a right-in right-out driveway with them. The proposed restaurant will also have a right-in right-out driveway of its own at the southern end of its frontage. The proposed restaurant will be approximately 6,500 square feet, will seat 252 guests, and will be open seven days a week for lunch and dinner. Construction will commence upon approval of the SUP and site plans and is expected to be complete in six months.

Staff found that the proposed restaurant is a complementary use to the surrounding businesses and believes that this use meets the intent of the Neighborhood Commercial Land Use of the Comprehensive Plan.

On August 1, 2005, the Planning Commission voted 7-0 to approve the application.

Staff recommends the James City County Board of Supervisors approve the application with the conditions in the resolution.

Mr. Brown requested that Mr. Almquist explain the added conditions, which Mr. Almquist replied was the permission of projecting signs which are not permitted in the Ordinance. This was requested by the Planning Commission

Mr. McGlennon questioned the proposed color scheme and its consistency with the area. The Planning Commission concluded that the colors were inconsistent and requested that they be muted.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing the applicant, provided a brief overview of the proposal and the color scheme of the establishment, and requested approval of the application and preservation of the color scheme as presented.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison made a motion to approve the proposal.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-23-05. TGI FRIDAY'S

WHEREAS, the Board of Supervisors of James City County has adopted ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Vernon Geddy has applied for a commercial special use permit for the construction of a TGI Friday's restaurant; and

WHEREAS, the land is located on a parcel zoned B-1, General Business, and can be further identified as Parcel No. (1-5A) on James City County Real Estate Tax Map No. (33-3); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2005, recommended approval of Case No. Special Use Permit 23-05 by a 7-0 vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-23-05 as described herein with the following conditions:

1. This SUP shall be valid for a restaurant no larger than 6,600 square feet and accessory uses thereto. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the Planning Director, with architectural elevations titled "Carlson Restaurants Worldwide, P6.2 Prototype" submitted with this special use permit and drawn by Carrell, Poole, and Yost Architecture and date-stamped "Received - Planning Department June 20, 2005.
2. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings, and foundation has passed required inspections.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
4. Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed eight feet in height from grade.
5. Building face signage shall be in accordance with Section 24-71 of the Zoning Ordinance. Projecting signs shall be prohibited.
6. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor buffer along Richmond Road (Route 60 West) so that the required number of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4 of the James City County Code. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
7. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
8. All dumpsters and heating and cooling units, whether on the ground or affixed on the rooftop, shall be screened by landscaping, fencing, or other alternative that provides similarly adequate screening, as determined and approved by the Planning Director

prior to final site plan approval.

- 9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case No. SUP 24-05. Williamsburg Winery—Gabriel Archer Tavern

Mr. Matthew Arcieri, Senior Planner, stated that Mr. Vernon Geddy, III submitted an application on behalf of Mr. Patrick Duffeler to renew SUP-24-05 to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. The restaurant is a specially permitted use in the R-8, Rural Residential, district in which the property is located. The restaurant operated from 1996 through January 13, 2004, without a SUP. The SUP approved by the Board of Supervisors on January 13, 2004, expired on August 30, 2004. A new SUP was approved by the Board of Supervisors on August 10, 2004. That SUP required the tavern to connect to public water and pass all necessary building inspections by December 31, 2004. The applicant did not complete those requirements within the designated time and that SUP expired on December 31, 2004. Following the expiration of the most recent SUP, the applicant has worked to resolve all outstanding issues before filing for a new SUP.

Staff found that the applicant has addressed the previous SUP conditions. The proposal is also acceptable from a land use perspective. There is one proposed change from the previously approved SUP: an update of Condition No. 1 to reflect the remaining issue to be resolved.

On August 1, 2005, the Planning Commission voted 7-0 to approve the application.

Staff recommended the James City County Board of Supervisors approve the application with the conditions in the resolution.

Mr. Brown opened the Public Hearing.

- 1. Mr. Vernon M. Geddy, III, representing the applicant, requested approval of the permit.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison made a motion to approve the proposal.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-24-05. WILLIAMSBURG WINERY - GABRIEL ARCHER TAVERN

SUP RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, restaurants are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on August 1,

2004, recommended approval of Case No. SUP-24-05 by a 7-0 vote to permit the continued operation of the Gabriel Archer Tavern consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery.

WHEREAS, the property is located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10B) on James City County Real Estate Tax Map No. (48-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 24-05 as described herein with the following conditions:

1. Prior to October 13, 2005, the Gabriel Archer's Tavern, ("the Tavern") shall have acquired a permanent Certificate of Occupancy.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

7. Case No. AFD-7-86.Mill Creek Agricultural and Forestal District—Findlay Addition

Mr. Matthew Arcieri, Senior Planner, stated that John Findlay applied to add 73.25 acres located at 3406 North Riverside Drive, zoned A-1, General Agricultural, further identified as Parcel No. (1-8H) on the James City County Real Estate Tax Map No. (9-4), to the Mill Creek Agricultural and Forestal District (AFD).

Staff found the proposed amendment to the AFD meets the minimum area and proximity requirements for inclusion in to and AFD and is consistent with surrounding zoning and development and the Comprehensive Plan.

At its meeting on July 13, 2005, the AFD Advisory Committee recommended approval of the application by a vote of 9-0.

At its meeting on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the Findlay addition to the Mill Creek AFD subject to the conditions listed in the Ordinance.

Mr. Brown opened the Public Hearing.

As no one wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Goodson made a motion to approve the Ordinance.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

8. Case Nos. SUP-25-05/MP-10-05. Prime Outlets Master Plan Amendment

Mr. Jose Ribeiro, Planner, stated that Mr. Alvin Anderson representing Kaufman and Canoles has submitted an application on behalf of Williamsburg Outlets, L.L.C. to amend the existing special use permit and master plan to allow for a 5,600 ± square-foot expansion of Prime Outlets. The applicant also proposed adding 43 new parking spaces in place of a proposed bus parking area. With that addition, the Prime Outlets will have 1,573 parking spaces.

Staff found the proposal compatible with surrounding land uses, and the Comprehensive Plan.

On August 1, 2005, the Planning Commission voted 7-0 to approve the application.

Staff recommended the James City County Board of Supervisors approve the SUP application with the conditions in the resolution.

Mr. Bradshaw inquired about the Master Plan amendment regarding the yellow markings near Route 60, which Mr. Ribiero stated were conditions to close an entrance, create the new parking spaces, and were addressed in prior proffers.

Mr. Brown opened the Public Hearing.

1. Mr. Dustin H. DeVore, Kaufman & Canoles, representing the applicant, provided an overview of the proposal.

Mr. McGlennon requested information about changes in the conditions, which Mr. DeVore explained were made to clarify the language of the application and to be legally acceptable rather than to raise any idea that the County would be “unreasonable” toward the applicant.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison made a motion to approve the proposal as amended.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-25-05/ MP 10-05. PRIME OUTLETS MASTER PLAN AMENDMENT

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Alvin Anderson has applied on behalf of Prime Outlets at Williamsburg, LLC, for a special use permit to allow for a 5,700±-square-foot expansion of Prime Outlets; and

WHEREAS, Mr. Alvin Anderson has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-23-99 and MP-3-99; and

WHEREAS, the conditions listed below replace the conditions of approval of James City County Case No. SUP-23-99; and

WHEREAS, the proposed expansion is shown on the master plan prepared by LandMark Design Group, dated July 28, 1999, revised on August 24, 2005, and entitled "Amended Master Plan Prime Retail Outlet Expansion" the "Master Plan"; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D) and (1-33E) on James City County Real Estate Tax Map No. (33-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2004, recommended approval of this application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 25-05 as described herein with the following conditions:

1. This special use permit shall be valid for the approximately 5,700-square-foot expansion of Prime Outlets and accessory uses thereto. The total Gross Building Area shall not exceed 367,202 square feet. Development of the site shall be generally in accordance with the above-referenced master plan, as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This special use permit and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-23-99 and prior SUP conditions affecting the Prime Outlets development.
2. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
3. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the above-referenced expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase VI-expansion, submitted with this special use permit application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
4. Prior to the issuance of any final Certificate of Occupancy for any new commercial construction on the site, adequate lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan and titled "Re-stripe existing parking for buses to parking for 43 cars". The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director, *which approval shall not be unreasonably withheld*. No lighting fixture shall exceed a height of 30 feet.

5. A landscaping plan for the 5,700-square-foot expansion referenced herein, including foundation landscaping in accordance with James City County Code Section 24-95 shall be approved by the Planning Director or his designee prior to final site plan approval. *Movable P*planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion, shall be approved by the Planning Director or his designee prior to final site plan approval.
6. Prior to submission of any commercial development plan for the 5,700-square-foot expansion referenced herein, the applicant shall submit a water and sanitary sewer master plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority.
7. ~~Prior to the issuance of any final Certificate of Occupancy for any building addition, or new building, located on Tax Map Parcel Nos. (33-1)(1-28) or (33-1)(1-29), there shall be~~ Applicant has installed a 35-foot-wide transitional buffer planted along the northern most property line. This area ~~shall be~~ *has been* planted *and shall be maintained as reasonably determined by the Director of Planning* at 133 percent of standards found in Section 24-94 of the James City County landscape ordinance (in terms of the numbers of trees and shrubs, not size), ~~in a manner acceptable to the Director of Planning~~ and with an emphasis on evergreen shade and understory trees. The fence already installed in this area shall be a maximum of eight feet high and shall be *maintained with a vinyl coating* and *shall be* either black or green in color. Furthermore, the fence shall be *maintained with a* setback from the property line at least three feet.
8. Prior to issuance of any final Certificate of Occupancy, the applicant shall complete the following: (1) internal driveways shall be designated as “One Way” traffic only, as shown on the Master Plan; and (2) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan for review and approval by the Director of Planning, *which approval shall not be unreasonably withheld.*
9. No dumpsters shall be allowed on any portion of the service road located behind the buildings along the northern property line where the service road is 20 feet in width or less.
10. If construction has not commenced on this project within thirty-six months from the issuance of this special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

9 & 10. Case No. SUP-19-05. Branscome Inc. Borrow Pit Renewal and Case No. SUP-20-05. USA Waste of Virginia Landfills, Inc. Renewal

Mr. Matthew Smolnick, Planner, stated that Mr. Vernon Geddy, III has submitted an application on

behalf of Branscome, Inc. (SUP-19-05) and USA Waste of Virginia Landfills, Inc. (SUP-20-05) for continued operation of a borrow pit or surface mine for sand and clay. The two existing SUPs would expire on October 10, 2005. As part of the renewal process, the applicant had requested that the Board of Supervisors re-approve the two SUPs without any time limit.

Staff found the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning.

On August 1, 2005, the Planning Commission voted 7-0 to approve the application.

Staff recommended the James City County Board of Supervisors approve the application with the conditions in the resolution.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing the applicant, provided an overview of the proposals and the benefits of the proposals. Mr. Geddy requested the Board release the condition for a time limit on the permits, as well as approval of the applications.

2. Mr. Greg Davis of Kaufman & Canoles, representing Greenmount, requested that the Board retained the five-year time limit on the permits.

3. Mr. Ed Oyer, 139 Indian Circle, adjacent to part of Newport News Water Works, requested that the Board retained the time limit in the applications.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Goodson made a motion to adopt both resolutions.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-19-05. BRANSCOME, INC. BORROW PIT RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested to amend existing Special Use Permit 9-00 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, designated General Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located approximately 1.2 miles southeast of the terminus Blow Flats Road on property more specifically identified as Parcel No. (1-2) on James City County Real Estate Tax Map No. (60-3); and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 7-0 with a five-year time limit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-19-05 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.
7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the special use permit, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within 90 days after the date of issuance of this permit a perennial stream study ("the Study") shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) ("RPA") located on the subject property. The limits of the RPAs located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be

allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.

10. For as long as the special use permit is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor, documenting Items A-H below. One such report shall be submitted between January 1 and January 31 of each year:
 - a. The extent and depth of the area mined over the previous calendar year.
 - b. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - c. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - d. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - e. A certification as to the amount of disturbed acreage on site.
 - f. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - g. A delineation of all areas that have been restored but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - h. A delineation of the extent of the areas covered by the State Mining Permit.
11. A CE-7 Land Use Permit shall be obtained from The Virginia Department of Transportation within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
13. This special use permit shall be valid for a period of five years from the date of approval by the James City County Board of Supervisors.

RESOLUTION

CASE NO. SUP-20-05 USA WASTE OF VIRGINIA LANDFILLS, INC.

BORROW PIT RENEWAL

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, the applicant has requested to amend existing Special Use Permit 8-00 to allow for the continued operation of a borrow pit; and
- WHEREAS, the property is currently zoned M-2, General Industrial, designated General Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located approximately 1.2 miles southeast of the terminus Blow Flats Road on property more specifically identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (60-3); and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 7-0 with a five-year time limit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-05 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.
7. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the special use permit, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within 90 days after the date of issuance of this permit, a perennial stream study ("the Study") shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) ("RPA") located on the subject

property. The limits of the RPA(s) located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.

10. For as long as the special use permit is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - a. The extent and depth of the area mined over the previous calendar year.
 - b. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - c. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - d. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - e. A certification as to the amount of disturbed acreage on site.
 - f. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - g. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - h. A delineation of the extent of the areas covered by the State Mining Permit.
11. A CE-7 Land Use permit shall be obtained from The Virginia Department of Transportation within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
13. This special use permit shall be valid for a period of five years from the date of approval by the James City County Board of Supervisors.

11. Cash Proffer Policy for Schools

Mr. John T. P. Horne, Development Manager, requested the Board approve the resolution adopting a cash proffer policy for schools.

Mr. Horne stated that the Board, at its Work Session on July 26, 2005, was presented the final report of the Cash Proffer Steering Committee and the developed cash proffer policy for schools reflects the recommendations of the Board and the Committee.

Mr. Brown referenced page two of the resolution, item number three and inquired why the Board should not address a particular amount for a unit that might be excused or waived from paying a mandatory

proffer.

Mr. Horne responded that a consensus was given which left flexible for the Board, the development community, or staff to work through.

The Board and staff briefly discussed the policy, how the policy would be implemented, and when the inflators would be applied.

Mr. Brown opened the Public Hearing.

1. Mr. Robert Duckett, PHBA Public Director, took action on tax rate earlier this evening. Mr. Duckett requested that the Board deny the proposed proffers, stating that the proffers will increase sale prices of homes and assessment of the surrounding homes. He encouraged the Board to look for other sources of revenue to cover capital costs, and recommended that the review time for proffers should be three to five years instead of every two years. He also commented on the negative impacts of the proffers on the costs of housing in the County and how this affected the local builders, developers, and potential homeowners.

2. Mr. John Wilson, 6304 Glenwilton Lane, Williamsburg Association of Realtors, concurred with Mr. Duckett's remarks and requested the Board not to adopt the cash proffer policy for schools.

3. Mr. Suders, 2505 Fair Chase Road, commented on the White Hall development that had a starting price range of approximately \$185,000 resulting from a list of proffers offered and stated that adding this on would only increase the starting price.

4. Mr. Hugo Rathcamp, 100 Elizabeth Page, stated that although he came here to speak against proffers, he has decided to support the cash proffer policy for schools to support the infrastructure for educating the youth of the community.

5. Mr. Mark Rinaldi, 10020 Sycamore Landing Road, stated that the imposition of proffer policies will create two classes of citizens in the community and requested the Board consider other methods to generate revenues.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Harrison spoke against the creation of a policy requiring proffers for schools and suggested that other methods can be identified to fund infrastructures for schools. He stated that continued growth in the community is the result of the Boards actions, and that he wants fiscal responsibility from his fellow members on the Board, as well as for the School Board members to be held accountable for the allocation of the funds the localities provide them.

Mr. Harrison made a motion to deny the approval of the Cash Proffer Policy for Schools.

Mr. Goodson supported proffers that were offered by the applicant for the application, but opposed a policy for proffers for schools.

Mr. Bradshaw stated that those opposing proffers did not add to the understanding of proffers and stated disappointment in the manner and methods used by those opposing proffers to mislead others into opposing them. He stated that the proposed cash proffer policy for schools was not perfect but was a good starting point.

Mr. McGlennon concurred with Mr. Bradshaw's comments and stated concern regarding the mailings distributed by the Williamsburg Association of Realtors and the misleading method of the mailing. He stated

that he has requested input about the negative impacts of proffers on communities and the ones he has presented do not support the stand that proffers cause problems. He continued to say that the Board is trying to determine the true cost of the developments on the community which the offered proffers have fallen short in covering.

The Board discussed dealing effectively with the funds delivered to the Board for allocation and holding the Board of Supervisors and the School Board accountable for the allocation of the funds and generation of revenues.

Mr. Brown stated that the Board needs to look forward regarding cash proffers and schools and stated his support for the new fixed cash proffer policy.

Mr. Harrison made a motion to deny the policy.

On a roll call vote, the vote was: AYE: Harrison, Goodson (2). NAY: McGlennon, Bradshaw, Brown (3).

Mr. McGlennon made a motion to adopt the policy.

On a roll call vote, the vote was: AYE: McGlennon, Bradshaw, Brown (3). NAY: Harrison, Goodson (2).

RESOLUTION

CASH PROFFER POLICY FOR SCHOOLS

WHEREAS, the Virginia Commission on Local Government defines “cash proffer” as “any money voluntarily proffered in writing signed by the owner of the property subject to rezoning, submitted as a part of the rezoning application and accepted by the locality” pursuant to the authority granted in Section 15.2-2298 of the Code of Virginia, 1950 as amended; and

WHEREAS, beginning November 13, 2005, staff will use the procedures and calculation described in this Resolution to guide its recommendation to the Board of Supervisors in all residential rezoning cases. The Board of Supervisors (the “Board”) will use this Resolution to guide its decision whether to accept cash proffered by applicants for a rezoning. The value of proffered land or other in-kind contributions, accepted by the County, shall be credited against the cash proffer amount for schools. In the event the value of proffered land or other in-kind contributions exceed the cash proffer amounts for schools, such excess value may be credited against cash proffers for other impacts; and

WHEREAS, any acceptance of cash proffered by an applicant shall meet a “reasonableness” or “rough proportionality” test, which requires the Board to determine in each zoning case whether the amount proffered is related both in nature and extent to the projected impact of the proposed development on public schools. State and County laws permit the Board to accept cash proffers to fund the public school needs generated by any new residential development; and

WHEREAS, a development proposal's impact on public schools will be evaluated based on the gross number of proposed dwelling units. When calculating the gross number of dwelling units, staff will not give credit for those dwelling units permitted under existing zoning and will not consider the transferring of allowable units from other properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the James City County, Virginia, adopts the following methodology and policy to be used to consider impact on public schools and proffered mitigation of proposed rezoning applications:

1. The five components to be used in calculating what a new dwelling unit will cost the County in terms of providing for new or expanded public school facilities are as follows:
 - a. Demand generators - Pupil generation rates determined by identifying the actual number of public school students residing in housing units built in the last five years in the County.
 - b. Service levels - The County's estimated costs of constructing new high, middle, and elementary schools, calculated on a per-student basis, become the service levels in the calculation of the cash proffer.
 - c. Gross Cost of school facilities --The product of the expected number of students calculated as a demand generator multiplied by the per-student cost of school facilities identified as the service level.
 - d. Credits - the gross cost of school facilities is reduced by a credit, representing the portion of real property taxes paid by new residents that would be used to retire debt incurred by the County for schools.
 - e. Net cost - this represents the net cost per new residential unit or the maximum cash proffer for schools. This is the Gross Cost minus the Credit.

*The detailed methodology is contained in the Final Report of the James City County Cash Proffer Steering Committee dated July 7, 2005.

2. There must be a relationship between the rezoning itself and the need for a public facility. Since public school buildings serve the entire County and new or expanded public school buildings may result in County-wide adjustments to attendance zones, rezoning requests will be analyzed on a County-wide basis to determine the impact on public school buildings.
3. The County will continue to consider any unique circumstances about a proposed development that may change the way that staff and the Board view the need for cash proffers for schools. Unique circumstances may include, but not be limited to, a demonstrable effort to meet the objectives of the County's Comprehensive Plan related to affordable housing.
4. Timing for the dedication of property or in-kind improvements should be specified in the proffer. Cash proffers, property dedications, and in-kind improvements must be used for projects identified in the County's Capital Improvement Program. Payments shall be expended in accordance with State law.

5. Adjustments in the cash proffer amount may be considered in August of odd-number years, beginning in 2007. Staff will recompute net costs based on the current methodology and recommend adjustments. Any adjustments would be effective upon adoption, but no sooner than July 1 of the fiscal year following adoption.
6. The cash proffer amount for school construction that the Board will use to guide its decisions in residential zoning applications received after November 13, 2005, are:

Single-Family Detached	\$4,011
Single-Family Attached	\$ 0
Multi-Family	\$4,275

If payment is rendered on or after July 1, 2006, then payments will consist of the adopted cash proffer payment per unit plus any adjustment as included in the Marshall Swift Building Cost Index.

7. The amounts identified in this Resolution are general guides for rezoning applications. Determination of whether an amount proffered by an applicant for rezoning is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Proffering a set amount is in no way a requirement to obtaining a positive decision on a residential rezoning application. In addition, the acceptability of a proffered school cash proffer under this Resolution, by itself, will not result in the approval of a residential rezoning application.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the passing of Mr. McConnell, former Mayor of Williamsburg.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that a Declaration of a Local Emergency was announced by the Governor and provided an overview of the readiness plan.

Mr. Wanner recommended that at the conclusion of the meeting, the Board adjourn to 4 p.m. on September 27, 2005.

Mr. Harrison made a motion to approve the resolution declaring local emergency.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find as follows:

1. That due to the occurrence of Hurricane Ophelia, the County of James City is facing a condition of extreme peril to the lives, safety, and property of the residents of James City County,
2. That as a result of this extreme peril, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with this condition of peril; and

WHEREAS, the Director of Emergency Management declared a local emergency on September 12, 2005.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a local emergency now exists throughout the County of James City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that during the existence of this emergency, the powers, functions, and duties of the Director of Emergency Management and the Emergency Management organization and functions of the County of James City shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of James City in order to mitigate the effects of said emergency.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison raised a concern of his constituents due to narrow street designs. He recommended the individuals go to the fire and police stations. He advised to have police and fire departments see if vehicles parked on roadway pose as a problem for emergency service if needed.

Mr. Bradshaw offered his thanks to businesses in the community for relief effort for Hurricane Katrina. He also commented on the local government's ability to cut through red tape so evacuees could come here and thanked those involved.

Mr. Bradshaw asked staff to explore means to allow on-site sales of agricultural products in areas zoned R-2.

Mr. Brown asked them to review such situations in all zonings.

Mr. McGlennon stated that he attended convocation for Williamsburg/James City County Schools representing the Board and commented on their good working relationship.

K. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointments of individuals to County boards and/or commissions, and

pursuant to Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of a parcel/parcels of property for public use.

Mr. Brown convened the Board into Closed Session at 12:29 a.m.

Mr. Brown reconvened the Board into Open Session at 1:00 a.m.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5).
NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3), to consider the acquisition of parcel/parcels of property for public use.

Mr. McGlennon made a motion to appoint Nancy Ellis as the alternate for Mr. Harrison on the Community Action Agency and to appoint Jacquelyn Brown to an unexpired term on the Parks and Recreation Advisory Commission which should be set to expire on April 12, 2008. He also made a motion to appoint Mark Wenger to an unexpired term on the Parks and Recreation Advisory Commission, with the term to expire on April 12, 2006; to reappoint Daniel Foley to a four-year term on the Social Services Advisory Board, with the term to expire on July 1, 2009; and to reappoint Diane Gilbert to a four-year term on the Social Services Advisory Board, with the term to expire on July 1, 2009; and to appoint Jeff Barra, Richard Costello, Jim Daniels, Victoria Fahringer, Virginia Hartmann, Richard Krapf, Gary Massie, and Jack Schmidt to the Rural Lands Committee.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5).
NAY: (0).

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5).
NAY: (0).

At 1:02 a.m. Mr. Brown adjourned the Board to 4 p.m. on September 27, 2005.

Sanford B. Wanner
Clerk to the Board

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